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CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 14th August, 2023

No. LD-2023/9168.—In exercise of the powers conferred by sub-section (3) of Section 3 of the National Security Act, 1980, the Administrator, Union Territory, Chandigarh, hereby directs, the District Magistrate, Chandigarh, to make orders, directing any person to be detained under the said Act, with a view to preventing him/her from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to maintenance of supplies and services essential to the community.

This Notification shall remain in force for a period of three months, with effect from 26.08.2023.

DHARAM PAL, I.A.S.,
Adviser to the Administrator,
Union Territory, Chandigarh.

Signature Not Verified
Digitally Signed by
Jatinder Kumar
Date: 16/08/2023
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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 7th August, 2023

No. 13/2/3-HII(2)-2023/11393.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 13/2018 dated 05.06.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

1. JASPAL KAUR W/O LATE SH. HARBANS SINGH
2. SATBIR SINGH S/O LATE SH. HARBANS SINGH
3. LAKHBIR SINGH S/O LATE SH. HARBANS SINGH ALL R/O VILLAGE BAROLI,
P.O. KALEWAL, TEHSIL KHARAR, DISTRICT SAS NAGAR (MOHALI)
(LRs of Workman/ Claimants)

AND

MANAGEMENT OF MARKFED THROUGH ITS MANAGING DIRECTOR,
PLOT NO.4, MARKFED HOUSE, SECTOR 35-B, CHANDIGARH (Management)

AWARD

1. On 16.03.2018 claimants Jaspal Kaur & Others filed an application under Section 2-A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*), accompanied with copy of demand notice raised by Jaspal Kaur - wife, Satbir Singh - son and Lakhbir Singh - son of Late Shri Harbans Singh. The claimants in the demand notice alleged that Harbans Singh S/o Late Dharam Singh, Ex-Daftri, Fertilizer Branch, MARKFED House - 4, Sector 35, Chandigarh (*here-in-after in short referred as 'workman'*) was selected and appointed as such long time back. He was regular and confirmed employee of the management. Now, the aforesaid workman is not alive having been died on 26.06.2015. The claimants are his wife and sons respectively. To the misfortune of the workman, he suffered from 'Prolopsed Intervertebral Scitica' i.e. the disease whereby the space between the vertebrates of the spinal cord gets reduced because of secretion of the fluid between the two vertebrates as a result of which the person suffering from this disease is not capable of any movement and there is strict medical advice that the person should stay straight as far as possible and in most cases complete bed rest is always advised. As a result of this disease the workman was under constant supervision and was unable to attend his duties. The doctor attending him had advised him complete bed rest in bits from 29.06.2007 to 15.12.2007. He was declared medically fit on 16.12.2007. On account of his ailment, the workman could not present himself for duties. Hence, he sent leave application along with medical certificate under registered cover. What to talk of accepting his leave application, instead he was issued a letter No.EST/EAG-3/PF/07/3474 dated 02.08.2007 calling his explanation. Thereafter a letter bearing No.EOI/EAI-1/2007/1666 dated 03.09.2007 was issued to the workman calling upon him to show cause within 15 days as to why action be not taken against him under Rule 2.20 of Markfed Common Cadre Rules, 1990, which stipulates termination of services of an employee after giving him one month's notice or pay in lieu thereof or to terminate the services of said employees without giving any notice if said employee absents himself beyond the leave originally granted or extended for a continuous period of 10 days or more. In such an event he shall lose his lien on the post and shall be considered to have abandoned with a job. The workman duly replied to show cause notice reiterating therein his request that he is unable to resume his duties because of above stated ailment but completely ignoring his beseeching the management terminated his service with the help of Rule 2.20 of Markfed, Common Cadre Rules 1990, vide letter bearing No.EOI/EAI-1/2009/1925 dated 22.09.2009 on the ground that same is time barred. Thereafter, the workman preferred a Civil Writ Petition No.1267 of

2010. While allowing said petition vide order dated 08.11.2010, the management was directed to decide the appeal on merit. The Appellate Authority rejected the appeal of the workman vide its order bearing Endst. No. EOI/EAI-4/2011/828 dated 30.08.2011 on the basis of above referred Rule 2.20 of Markfed Common Cadre Rules, 1990 with the reasoning that the workman remained absent for more than 4 months and that his previous service record shows that he is habitual absentee and let off with minor penalties. The impugned order of termination of services of the workman bearing Endst. No. EOI/EAI-1/2007/2236 dated 29.11.2007 and rejection of his appeal bearing Endst. No. EOI/EAI-4/2011/828 dated 30.08.2011 are illegal and the workman deserves to be treated as if his services were never terminated along with attendant consequential benefits on the following grounds :—

- i) The services of the confirmed employee could never be terminated with the help of Rule 2.20 of Markfed Common Cadre Rules, 1990. The Hon'ble Supreme Court of India in catena of cases has interpreted synonym rules and has held that the termination of services in the manner alike the workman is nonetheless but is colourable exercise of powers, deprecated it and directed reinstatement with all attendant consequential benefits.
- ii) The absence is misconduct. Perusal of impugned order shows that services of the workman were terminated on the ground of absence. The workman is removed from his services which a major penalty within the meaning of Rule 6 of The Punjab State Cooperative Supply and Marketing Federation Employees (Punishment & Appeal) Rules, 1990. Rule 10 of *ibid* Rules provide complete procedure of imposition of major penalty whereas in the instant case procedure enshrined under *ibid* Rule 10 has totally been by-passed.
- iii) Holding an opinion on the basis of previously suffered punishment mentioned in the show cause notice that workman is a dead wood is clearly harsh as on the basis of previous punishments he could not have been inflicted with harsher punishment of removal of service on the reason of his absence from 29.06.2007 which was beyond his control and on the advice of the doctor and would mean double jeopardy.
- iv) Once the workman had pleaded that he is ailing then the management ought to have adopted a human approach and at the most could have instructed him to get himself examined by a Principal Medical Officer so as to make sure itself with certainty that he is not feigning his ailment.
- v) The management has failed to appreciate that absence from duty without any application or prior permission may amount to unauthorized absence but it does not always mean willful. If allegations of unauthorized absence from duty is made, the disciplinary authority is required to prove that the absence is willful, in the absence of such finding, the absence will not amount to misconduct.
- vi) The management has failed to appreciate that absence from duty, workman producing medical reports that he was seriously ill and absence was beyond his control, neither allegation of willful or deliberate absence nor proved as such, no allegation that medical reports were forged or that he was not ill during the period, therefore, impugned order is illegal and perverse.
- vii) At the most the management ought to have treated the alleged absence of the workman from 29.06.2007 onwards independently and not to conjoint with previous for which workman was already punished.
- viii) Vide the impugned order of the termination, the management has regularised alleged absence of the workman and has treated his absent period as leave without pay, thus, when absence is regularized, charge of absence vanishes into oblivion.
- ix) The inflicted punishment is shocking disproportionate to the alleged guilt.

It is further alleged that workman was a poor and low paid employee, had to spend huge expenditure on his treatment, therefore, after passing the impugned order, had no source to pursue to litigation. This position

persisted after his demise whereas the moment some funds were generated with the help of near and dears of the family, the demand notice is prepared and filed causing some delay which was never intentional and willful rather was beyond controlling. Prayer is made that impugned orders bearing Endst. No. Endst. No. EOI/EAI-1/2007/2236 dated 29.11.2007 and Endst. No. EOI/EAI-4/2011/828 dated 30.08.2011 may be withdrawn and the workman may be treated as if his services were never terminated along with attendant consequential benefits.

2. On notice, the management contested the claim statement by filing written reply on 08.01.2018 wherein preliminary objections are raised on the ground that applicants have not approached the court with clean hands and concealed many material facts from the court. The applicants are concealed that workman Harbans Singh was a habitual absentee from his service and was many a time remained absent from his duty without any reason or approval from the competent authority, due to which the demand notice is liable to be dismissed without going into the merits of the case. The workman was given personal hearing and was even directed to join his duties but he failed to join his duties and even failed to file reply to show cause notice to prove his innocence, due to which he was terminated from his services by the management. As per the Common Cadre Service Rules of Markfed, if any employee remains absent himself without any approval of competent authority or without any intimation to the competent authority for a continuous period of ten days or more, in such an event he shall loss his lien on the post and shall be considered to have abandoned the job and he is not entitled to any notice or pay. The workman remained absent from his duty for more than 4 months without intimation to competent authority, due to which he was dismissed from his service and is not entitled to any pay.

3. Further on merits, it is stated that the fact needs no reply that Harbans Singh S/o Late Dharam Singh, Ex-Daftri, Fertilizer Branch, Markfed, Chandigarh was selected and appointed as such a long time back and was regular and confirmed employee of the management. It is further stated that on receiving notice from the court of Assistant Labour Commissioner (ALC), U.T, Chandigarh, the management appeared through its counsel by filing Power of Attorney on 20.06.2017. Thereafter, management filed reply to demand notice through its counsel on 11.07.2017 which was taken on record by the ALC, U.T. On both the dates of hearing i.e. 20.06.2017 and 11.07.2017, the applicants did not appear before the ALC, U.T, in their case and thereafter the ALC, U.T, has reserved the case for order on 11.07.2017, after taking reply of the management and waiting for a long time for appearance of applicant, due to which the conciliation failed and the applicants approached in this court.

4. In parawise reply to demand notice it is stated that workman was selected and appointed by the management. Workman used to remain absent from his duties during the period of 20.10.2004 to 21.09.2005 and again remained absent from his duties from 21.07.2006 to 20.08.2006 and then from 28.11.2006 to 12.03.2007 for which he was awarded punishment as his 5 annual grade Increments were stopped. Again workman absented from his duties from 30.06.2007 onwards and never joined his duties, due to which he was terminated from his services as he is habitual absentee. As per record of the organization from the inquiry section, following cases were against Harbans Singh :—

- a) Charge-sheet No. 3806 dated 26.09.2005 for remaining absent for the period from 20.10.2004 to 21.09.2005. Punishment awarded vide order dated 11.07.2006 of stoppage of one annual grade increment with cumulative effect.
- b) Charge-sheet for remaining absent for the period from 21.07.2006 to 20.08.2006. Punishment awarded vide order dated 06.10.2006 of stoppage of four annual grade increments without cumulative effect with absence period as leave of the kind due.
- c) SCN No. 174 dated 18.01.2007 for remaining absent for period from 28.11.2006 to 12.03.2007. Punishment awarded vide order dated 21.03.2007 of stoppage of two annual grade increments without cumulative effect.

- d) SCN No. 1666 dated 03.09.2007 for remaining absent for period from 30.06.2007 onwards. Vide order dated 29.11.2007, the services of the Harbans Singh were terminated under Rule 2.20 of Markfed Common Cadre Rules, 1990 with immediate effect and his absence period was ordered to be treated as leave without pay.

Harbans Singh filed an appeal before the competent authorities, but his appeal was dismissed being time barred. It is a matter of record that the workman has died on 20.06.2015 and that the applicants are his wife and sons respectively. No medical record had been placed on record by the applicants to prove the averments of claim statement. No medical record was given by the workman to the management when show cause notice was issued to him and when he was called for personal hearing. If there was any medical problem to the workman, then he could have applied for medical leave from the competent authority after producing medical certificate from the doctor but nothing has been proved or produced by the workman and the applicants. It is denied as wrong that workman had applied for leave through postal cover. There is no postal receipt on record showing that the workman had applied any leave through post. The workman has not produced any postal receipt during the show cause notice and his personal hearing before the competent authorities. In the absence of any medical leave and any medical certificate and remaining absent from his duties for 4 months, workman was issued show cause notice as per the Common Cadre Rules of the Markfed, to which no reply was given and due to which his services were terminated. As per order dated 29.11.2007 issued by the competent authority no reply to show cause notice was given by the workman, which proves his admission of his guilt due to which he was punished and terminated from service. The workman filed an appeal before the Appellate Authority which was dismissed by the appellate authority being time barred. The workman filed a Civil Writ Petition before the Hon'ble High Court which was partially accepted and the management was directed to decide the appeal no merits. After getting directions from the Hon'ble High Court the appeal of the workman was again heard and opportunity of personal hearing was given to the workman and he personally appeared before the Appellate Authority. The appellate authority after going through the record and by giving personal hearing dismissed the appeal of hearing as result of which the workman was terminated from his services vide order dated 30.05.2011. Rest of the contents of the demand notice are denied as wrong and prayer is made that the claim application and demand notice may be dismissed with heavy costs.

5. Replication not filed. From the pleadings of the parties, following issues were framed vide order dated 19.09.2018 :—

1. Whether the services of the workmen were terminated illegally by the management, if so, to what effect and to what relief they are entitled to, in any ? OPWs
2. Relief.

6. In evidence, claimant Jaspal Kaur examined herself as AW1 and tendered into evidence her affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to 'W4'.

Exhibit 'W1' is original UPC receipt bearing postal stamp dated 15.01.2008.

Exhibit 'W2' is original UPC receipt bearing postal stamp dated 22.04.2008.

Exhibit 'W3' is original UPC receipt bearing postal stamp dated 28.04.2008.

Exhibit 'W4' is original UPC receipt bearing postal stamp dated 08.08.2008.

7. Claimant Satbir Singh and Lakhbir Singh examined themselves as AW2 and AW3, tendered into evidence their affidavits Exhibit 'AW2/A' and Exhibit 'AW3/A' respectively.

8. It is pertinent to mention here that during cross-examination of AW1 to AW3 Learned Representative for the management put documents Exhibit 'M1' to 'M3'.

Exhibit 'M1' is show cause notice bearing No.EOI/EAI-1/2007/1666 dated 03.09.2007 issued by Chief Manager (Personnel), Markfed to Harbans Singh.

Exhibit 'M2' is termination order dated 27.11.2007 passed by Additional Managing Director (G), Markfed in continuation to show-cause notice bearing No.EOI/EAI-1/2007/1666 dated 03.09.2007.

Exhibit 'M3' is order dated 30.05.2011 passed by Managing Director Exercising the Powers of Appellate Authority.

On 05.04.2023 Learned Representative for the claimants closed the evidence.

9. On the other hand, the management examined Shiv Kumar - Senior Assistant as MW1, who tendered into evidence his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M4' to Exhibit 'M11'.

Exhibit 'M4' is authority letter dated 28.04.2023 issued in favour of Shiv Kumar by Estt. Officer (Inquiry).

Exhibit 'M5' is resolution approved in meeting of Board of Directors held on 23.07.2015.

Exhibit 'M6' is letter dated 02.08.2007 issued by management to Harbans Singh calling his explanation.

Exhibit 'M7' is Rule 2.20 of The Punjab State Cooperative Supply and Marketing Federation Employees (Common Cadre Service Rules 1990, (as approved by the Registrar, Cooperative Societies, Punjab vide his memo No. MA-1/72-B/MKG/3329 dated 8th July 1991)

Exhibit 'M8' is charge-sheet No.3806 dated 26.09.2005 issued by Additional Managing Director (G), Markfed to Harbans Singh along with Annexure - I i.e. charges in brief against Harbans Singh, Daftri **Exhibit 'M8/1'**, Annexure - II i.e. Charges in detail against Harbans Singh, Daftri **Exhibit 'M8/2'**, Annexure - III list of documents **Exhibit 'M8/3'** and Annexure - IV i.e. list of witnesses vide **Exhibit 'M8/4'**.

Exhibit 'M9' is supplementary charge-sheet No.4069 dated 25.10.2005 issued by Additional Managing Director (G), Markfed to Harbans Singh along with Annexure - I i.e. charges in brief against Harbans Singh, Daftri vide Exhibit 'M9/1', Annexure - II i.e. Charges in detail against Harbans Singh, Daftri vide Exhibit 'M9/2', Annexure - III list of documents Exhibit 'M9/3' and Annexure - IV i.e. list of witnesses vide Exhibit 'M9/4'.

Exhibit 'M10' is punishment order dated 04.07.2006 passed by Chief Manager (Personnel), Markfed relating to charge-sheet No. 3806 dated 26.09.2005 and supplementary charge-sheet No. 4069 dated 25.10.2005.

Exhibit 'M11' is show cause notice No. 174 dated 18.01.2007 issued by Chief Manager (Personnel), Markfed (already exhibited vide Exhibit 'M1' in cross-examination of AW1 to AW3).

Exhibit 'M12' is order dated 16.03.2007 passed by Chief Manager (Personnel) Markfed relating to show cause notice No. 174 dated 18.01.2007.

On 31.05.2023 Learned Representative for the management closed the evidence.

10. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :—

Issue No. 1 :

11. Onus to prove this issue was on the claimants.

12. In order to prove the case claimant Jaspal Kaur examined herself as AW1, who vide her affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto and supported version with documents Exhibit 'W1' to 'W4'. The claimant Satbir Singh and Lakhbir Singh examined themselves as AW2 and AW3, who tendered into evidence their affidavits Exhibit 'AW2/A' and Exhibit 'AW3/A' respectively deposed the averments of claim statement in toto.

13. From the oral as well as documentary evidence on record, it comes out that admittedly Harbans Singh was an employee of Markfed. There is no denial to the fact that said Harbans Singh died on 26.07.2015 leaving behind his wife Jaspal Kaur (herein applicant No.1), his sons Satbir Singh and Lakhbir Singh (here-in applicant No.2 & 3) respectively.

14. The grievance of the applicants is that during service Harbans Singh suffered from 'Prolopped Intervertible Scitica' as a result of which he was under medical treatment and confined to bed. He was advised complete bed rest in parts from 29.06.2007 to 15.12.2007. He was declared medically fit on 16.12.2007. Applicants alleged that Harbans Singh sent his leave application accompanied with medical certificate under registered cover, but instead of granting leave, the management initiated disciplinary proceedings against him. On the other hand, the management has denied the fact that Harbans Singh applied leave accompanied with medical certificate and has taken the plea that in fact Harbans Singh remained absent from duty during the period 20.10.2004 to 21.09.2005, 21.07.2006 to 20.08.2006, 28.11.2006 to 12.03.2007 for which he was awarded punishment of stoppage of 5 annual grade increments. Harbans Singh was habitual absentee, who again absented from 30.06.2007 onwards and thereafter never joined his duties. To my opinion, the applicants' plea that Harbans Singh applied leave accompanied with medical certificate / medical record does not stand proved, as the applicants have not proved into evidence any copy of such leave application or medical certificate or medical record. The UPC postal receipt Exhibit 'W1' to Exhibit 'W4' does not show which letter or document was sent or dispatched through these receipts. The postal receipt Exhibit 'W1' to 'W4' cannot be connected with the leave application, if any, relating to the period 29.06.2007 to 15.12.2007 (claimants alleged that Harbans Singh was advised complete bed rest in parts from 29.06.2007 to 15.12.2007), because the aforementioned UPC receipts are of subsequent period. AW1 in her cross-examination admitted that UPC receipt Exhibit 'W1' is of dated 15.01.2008, Exhibit 'W2' is of dated 22.04.2008, Exhibit 'W3' is of dated 28.04.2008 and Exhibit 'W4' is of dated 08.08.2007. Similar is the version of AW2 and AW3 in their cross-examination. AW1 in her cross-examination stated that she does not have any medical record of her husband. AW2 also in his cross-examination stated that he does not have medical record of his father. Similar is the version of AW3 in his cross-examination. The plea taken by management that Harbans Singh was habitual absentee stand proved from cross-examination of AW1 to AW3 wherein they have admitted as correct that after 2004, Harbans Singh remained on leave for a considerable long period.

15. Learned Representative for management has argued that services of Harbans Singh were terminated by initiating disciplinary action against him under Rule 2.20 of the Markfed Common Cadre Service Rules, 1990. Applicant's Representative contended that the said rules are not sanctioned by any competent authority thus cannot be applied to Harbans Singh. The applicant's objection to applicability of Common Cadre Service Rules, 1990 / Exhibit 'M7', is not sustainable and lacks merits for the reason that these Rules are approved by the Registrar Co-operative Societies, Punjab vide Memo No.MA-1/72 B/MKG/3329 dated 8th July 1991.

16. Undisputedly, the services of Harbans Singh were terminated w.e.f. 29.11.2007 and appeal against the termination order was dismissed vide order dated 22.02.2009 passed by appellant authority. Harbans Singh challenged the order of termination dated 29.11.2007 and order of appeal dated 22.02.2009 before the Hon'ble High Court by filing CWP No.1267/2017 titled as Harbans Singh Versus Markfed. The Hon'ble High Court vide order dated 08.11.2010 decided the CWP. The relevant portion of order dated 08.11.2010 is reproduced as below :—

"(4) For the reasons afore-stated, the writ petition is allowed in part. The impugned order dated 22.09.2009 (Annexure - P11) is hereby quashed and the appellate authority is directed to decide the petitioner's appeal on merits in accordance with law, preferably after giving him an opportunity of personal hearing, within a period of four months from the date of receipt of a certified copy of this order.

(5) Orders accordingly. Dasti."

17. In compliance with the order dated 08.11.2010 of Hon'ble High Court, Managing Director exercising the power of appellate authority, decided the appeal afresh on merits by passing order dated 30.05.2011

/ Exhibit 'M12'. Before passing order dated 30.05.2011 / Exhibit 'M12', the appellate authority provided opportunity of being heard to Harbans Singh and heard him personally on 21.03.2011. AW1 in her cross-examination admitted that personal hearing was given to her husband by the Markfed. AW2 in his cross-examination admitted that personal hearing was given his father. Similar is the version of AW3 in his cross-examination. The management has taken the plea that Harbans Singh was issued show-cause notice Exhibit 'M1', to which he did not file reply. In cross-examination AW1 admitted as correct that Markfed issued show cause notice Exhibit 'M1', to her husband as he remained on long leave. Her husband had filed reply to the show-cause notice. She does not have the copy of the reply filed by her husband. AW2 in his cross-examination admitted as correct that Markfed issued show cause notice Exhibit 'M1' to his father as he remained on long leave. His father had filed reply to the show cause notice. He does not have the copy of the reply filed by his father. Similar is the version of AW3 in his cross-examination. The aforesaid version of AW1 to AW3 that Harban Singh replied to show cause notice Exhibit 'M1', does not stand proved as no copy of alleged reply is placed on record by any of the AWs. The appellate authority in its order dated 30.05.2011 / Exhibit 'M12' observed as below :—

"I have gone through the appeal filed by Sh. Harbans Singh, Ex-Daftari against termination of his services. It has come on record that before termination of his services, he was provided ample opportunities by issuing the Show Cause Notice vide memo dated 3.9.2010 under Rule 2.20 of Markfed Employees (Common Cadre) Service Rules 1990. Prior to this, he was directed to join his duties vide letter dated 2.8.2007, but he did not reply to the Show Cause Notice nor joined his duties, despite the fact that the said letters were duly received by him. Thus, it is clear that Sh. Harbans Singh remained absent from his duty w.e.f. 30.06.2007 onwards without any intimation or leave application on medical grounds. Thus, it was proved that Shri Harbans Singh abandoned the job at his own. The plea in the appeal of Sh. Harbans Singh that he was will and application for the same was sent along with medical certificate is not supported by facts."

The appellate authority after providing opportunity of being heard to Harbans Singh and after appreciating the facts and documents on record has passed the speaking order dated 30.05.2011 / Exhibit 'M12' which is legal and valid.

18. Accordingly, this issue is decided against the claimants and in favour of the management.

Relief :

19. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

The 05.06.2023.

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 7th August, 2023

No. 13/2/1-HII(2)-2023/11395.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 111/2018 dated 30.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

GULSHAN S/O SH. RAMU R/O H.NO.2721, SECTOR 49-C, CHANDIGARH (Workman)
AND

1. HAWKS EYE SECURITY SERVICES PVT. LTD., SCO 181-182, 1st FLOOR, SECTOR 8-C, CHANDIGARH, THROUGH ITS AUTHORISED SIGNATORY.
2. GROZ-BECKERT ASIA PVT. LTD., 133-135, PHASE -1, CHANDIGARH, THROUGH ITS FACTORY MANAGER. (Management)

AWARD

1. Gulshan, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter in short called 'ID Act'), wherein it is averred that the workman was appointed as a Safai Karamchari (House Keeping) on 13.12.2007 by M/s Hawks Eye Security Services Pvt. Ltd. (*hereinafter referred as 'management No.1*). The workman was deployed at the work place at M/s Groz Beckert Asia Pvt. Ltd. Industrial Area, Phase - I, Chandigarh (*hereinafter referred as 'management No.2*). Hence, the workman is a 'workman' as defined under Section 2(s) of the ID Act. Management No.1 is the contractor and management No.2 is the principal employer where the workman worked as *Safai Karamchari* (House Keeping). The daily timings of the workman were from 7:00 A.M. to 4:00 P.M. with weekly off. The work of the workman was controlled, supervised and assessed by both the managements. The workman was being paid ₹13,500/-as gross salary including incentives and allowances and after deduction of provident fund, ESI and diet deduction, the workman was receiving an amount of ₹12,288/- per month by management No.2 through the contractor. The last drawn net salary of the workman is ₹12,288/- per month after the deductions mentioned above. Management No. 2 paid ₹1,200/- in the year 2016 as Diwali Festival Sweets and also paid ₹3,000/- in 2010 while celebrating its Golden Jubilee Celebration. This was paid to all employees of management No.2. The workman was enjoying yearly increment given by management No. 2. The work & conduct of the workman while in service was unblemished and satisfactory. Neither any charge sheet was served to him nor any inquiry was conducted against him for any misconduct during whole tenure of his service. On 01.04.2017 the workman reported for duty as usual. Anil Managal, official of management No.2 asked the workman to sign on a blank paper in the name of salary slip. Then, after one hour the official of management No.2 told the workman not to come on duty until called again. Hence, the managements illegally, arbitrarily and *malafidely* terminated the services of the workman all of the sudden without following the mandatory procedure laid down under the provisions of the ID Act. Neither prior notice was issued to the workman nor he was paid wages in lieu of the notice period. The junior employees than the workman have been retained in service in violation of provision of law by the managements. The Housekeeping and cleaning work is still going on as the same is regular work of the factory of management No.2. The workman has served in the factory of management No.2 for continuous period from 13.12.2007 to 01.04.2017. The workman has completed 240 days in the 12 calendar months preceding his termination. On 27.10.2017 the workman lodged a complaint with Labour Inspector, U.T. Chandigarh for his reinstatement with continuity of service and full back wages but no amicable settlement could be made possible. During the proceedings

before the Labour Inspector, management No.1 filed reply dated 11.12.2017 and claimed that its contract with management No.2 was terminated w.e.f. 28.02.2017 and falsely stated that the workman has resigned from his job. Thereafter, the workman submitted demand notice dated 13.06.2018 to the managements before the Assistant Labour Commissioner-cum-Conciliation Officer, Sector 30, Chandigarh. Both the managements submitted its reply dated 25.09.2018 and 04.09.2018 respectively. The Conciliation Officer initiated conciliation proceedings but the same failed. The conciliation Officer vide letter bearing Memo No.6811 dated 12.10.2018 advised the workman to refer Section 2-A of the ID Act. During the pendency of the conciliation proceedings, management No.1 in order to create illusion sent ante dated notice under Section 2-A of the ID Act dated 14.06.2018, actually sent on 27.06.2018, to the workman asking him to join the duty. When the workman contacted the management No.1, he was told to work at some other place at a salary of ₹ 6,000/- which was much lower than his last paid salary of ₹13,500/. The workman had made it clear to management No.1 that he is entitled to same wages as he was last paid and he would not work for lesser amount. However, no such offer was made by the management No.1 before the Conciliation Officer. Prayer is made that managements may be directed that the workman be reinstated into service with continuity of service, full back wages and all the benefits to which the workman is entitled under the provisions of law.

2. On notice, management No.1 appeared through its representative Shri A. K. Bakshi and contested the claim statement by filing written statement on 11.02.2020, wherein preliminary objections are raised on the ground that the workman resigned from his post and *Safai Karamchari* at his own due to personal reasons and received his full & final settlement payment. The claim application has been filed to harass the management and to extract more money from them. The workman has also withdrawn his provident fund. Hence, as per settled law the workman has lost his lien on the job and estopped from raising the present dispute. The present claim statement is not maintainable. The workman has not approached with clean hands and suppressed the material facts from this Hon'ble Court. Hence, the workman is not entitled to any relief.

3. Further on merits, it is admitted to the extent that the workman was deployed in the house-keeping service in the establishment of management No.2 by the answering management No.1 under a contract for service. It is admitted that management No.1 is contractor and management No. 2 is the principal employer where the workman worked as *Safai Karamchari* (House-keeping). The workman resigned at his own due to personal reasons and received his full & final payment. It is admitted to the extent that the workman made a complaint to the Labour Inspector and the answering management had filed its detailed reply with all the proofs with Labour Inspector. The reply filed by the management was accepted by the Labour Inspector and the workman was advised to withdraw his complaint. The workman raised a demand notice on 13.06.2018 despite the fact that he had himself resigned from the service and taken full & final settlement. The answering management still offered him a job at another place where the work was available but the workman was adamant to work at the premises of management No.2 only and did not accept the offer of the answering management. It is denied that the workman was offered salary of ₹ 6,000/- only. Rest of the averments of claim statement are denied as wrong and prayer is made that the statement of claim / reference may be dismissed with cost.

4. Management No.2 appeared through its Representative Shri D. P. Sharma and contested the claim statement by filing the separate written statement on 07.06.2019 wherein preliminary objections are raised on the grounds that the person concerned was never in the employment of management No.2. There was privity of contract between the concerned person and management No. 2. As such no employer-employee relationship ever existed between them. Therefore, the question of appointment or termination of the concerned person by the management No.2 does not arise. The concerned person was employee of management No.1 (contractor), who is a licensed contractor under The Contract Labour (Regulation & Abolition) Act, 1970 (*hereinafter in short referred as '1970 Act'*). The concerned person was getting his monthly wages from management No.1 (contractor). Management No.1 is covered under The Employees' Provident Funds &Miscellaneous Provisions Act, 1952 (*hereinafter in short referred as '1952 Act'*) and Employees State Insurance Act, 1948 (*hereinafter in short referred as '1948 Act'*) having EPF Code PBCHD0012070000 and ESI Code 17120364120011001 and the concerned person being an employee of the

contractor was also covered under EPF and ESI under the aforesaid EPF and ESI codes of the management No.1 (contractor). The concerned person has already withdrawn his EPF accumulation on the recommendations of his employer namely M/s Hawks Eye Security Services Pvt. Ltd. i.e. management No.1 as intimated by management No.1. Management No.2 has no role to play in the engagement and termination of services of the concerned person. The concerned person used to work as per the instructions of Security Supervisor of management No.1. The work & conduct of the concerned person was supervised and controlled by the management No.1 through its Security Supervisor. Therefore, the present statement of claim / reference is bad in the eyes of law and needs to be dismissed on this ground itself. The concerned person was employed by the management No.1 and his services were regulated by the management No.1 in accordance with 1970 Act and Rules thereunder and not under the ID Act. Therefore, the concerned person has the remedy to file claim under 1970 Act and Rules thereunder but not under the ID Act. The present claim statement / reference needs to be rejected on this ground also. From the written comments to the demand notice filed by management No.1 that the applicant had resigned due to his personal reasons and also received his full & final dues. The concerned person has also withdrawn his EPF accumulations on the recommendations of his employer i.e. management No.1. The concerned person was offered alternate employment by the management No.1 which was not availed by the concerned person. Hence, the present claim statement / reference is not maintainable and therefore liable to be dismissed on this ground too. Since there was no employment of the person concerned with the management No.2 the question of termination and appointment of the concerned person by the management No.2 does not arise. Hence, the present claim statement / reference seeking any relief from management No.2 is bad in the eyes of law and liable to be dismissed on this score as well.

5. Further on merits, it is stated that the concerned person was employee of management No.1 (contractor) and he was deployed to work as *Safai Karamchari* (House-keeping) in the factory of management No.2 as a contract labour. Hence, the date of joining of the concerned person cannot be confirmed by the management No.2. It is denied as wrong that the concerned person is a 'workman' as defined under Section 2(s) of the ID Act. Management No.2 being the principal employer is duly registered under the 1970 Act having registration No.PE/CL/UT/CHD/49 whereby management No.2 has been authorised to engage management No.1 as a contractor. Similarly, the management No.1 is a licensed contractor under 1970 Act having licence No.CI(UT)/CHD/239. It is denied that the work of the concerned person was controlled, supervised and assessed by the management No.2. In fact, the work of the concerned person was controlled, supervised and assessed only by the management No.1. The concerned person was employee of management No.1 and therefore, it is the management No.1, who could confirm the rate of wages paid to the concerned person. It is denied as wrong that management No.2 has ever paid ₹1,200/- as Diwali Festival Sweets or ₹3,000/- in 2010 on the occasion of Golden Jubilee Celebration. In fact, management No.2 has never paid any amount whatsoever directly to the concerned person. The concerned person was getting his monthly wages and other payments from the management No.1. It is denied for want of knowledge last drawn net salary of the workman was ₹12,288/-. It is denied that on 01.04.2017 the concerned person was called by Shri Anil Mangal, official of management No.2 and he directed the concerned person not to come on duty from the next date and that he forced the concerned person to sign on some blank papers and that the concerned person refused for the same. The factual position, however, remains that the concerned person was never called by Shri Anil Mangal and he was never directed not to come on duty on the next day. He was never forced to sign on blank papers. It is denied as wrong that the services of the concerned person was illegally, arbitrarily and *malafidely* terminated by the management No.2. The concerned person was the employee of the management No.1. Hence, the management No.2 had no role to play in the appointment or termination of the services of the concerned person. Even otherwise Section 25-G of the ID Act is not attracted in the present case. It is noted from the written comments to the demand notice filed by the management No.1 that the applicant had resigned due to his personal reasons and also received his full & final dues. Further, it is admitted by the applicant that he was offered alternate employment by the management No.1 which was not availed by the concerned person. It is denied that the concerned person has served for continuous period as an employee of management No.2 from 13.12.2007 to 01.04.2017. The concerned person was the employee of management No.1. The management No.1 had submitted its reply to the complaint of the applicant wherein it was mentioned that the

applicant was told to adjust with other clients but the applicant came to its office and resigned due to his personal reasons and received his full & final dues. The concerned person has also withdrawn his EPF accumulation on the recommendations of his employer i.e. management No.1. It is admitted to the extent that the applicant submitted demand notice dated 13.06.2018 for which the conciliation proceedings took place. The management No. 2 and the management No.1 submitted replies to the demand notice. During conciliation alternate employment was offered to the applicant by the management No.1 but the applicant resigned due to his personal reasons and received his full & final dues from the management No.1. Rest of the averments of claim statement are denied as wrong and prayer is made that statement of claim / reference may be dismissed with exemplary cost.

6. The workman on 04.09.2019 filed rejoinder to the written statement of management No.1 wherein the contents of the written statement except admitted facts of the claim statement are denied as wrong and averments of claim statement are reiterated.

7. Rejoinder to the written statement of management No. 2 not filed.

8. From the pleadings of the parties, following issues were framed vide order dated 09.02.2021 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there exists no employer-employee relationship between Management No.1 and workman ? OPM-2
3. Relief.

9. In evidence, the workman Gulshan examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W3'.

Exhibit 'W1' is copy of reply dated 11.12.2017 filed Haws Eye Security Services Pvt. Ltd. to Labour Inspector Circle I & III, U.T. Sector 30, Chandigarh relating to the subject complaint received from Shri Sonu Kumar regarding non-payment of salary.

Exhibit 'W2' is reply dated 14.06.2018 submitted by Hawks Eye Security Services Pvt. Ltd. to Gulshan Kumar relating to the subject demand notice under Section 2-A of the ID Act.

Exhibit 'W3' is the registered postal envelope addressed from Hawks Eye Security Pvt. Ltd. to Gulshan Kumar, #2721/1, Sector 49-C, U.T. Chandigarh along with original postal receipt dated 27.06.2018.

On 16.08.2022 Learned Representative for the workman closed evidence on behalf of the workman.

10. It is pertinent to mention here that during cross-examination of AW1 Gulshan documents Exhibit 'M1' and Exhibit 'M4' were put to him by Shri A. K. Bakshi - Representative for management No.1.

Exhibit 'M1' is the original resignation letter dated 04.04.2017.

Exhibit 'M2' is the original receipt dated 07.04.2017 of full & final settlement of Gulshan.

Exhibit 'M3' is claim statement filed by the workman Gulshan.

Exhibit 'M4' is authority letter of the workman in favour of Shri Vipin Kumar.

11. On the other hand, management examined MW1 Ramesh Atwal - SSA O/o Regional Provident Fund Commissioner, Sector 17-D, Chandigarh, who brought into evidence letter dated 14.11.2022 pertaining to the settlement of the workman i.e. Gulshan Kumar S/o Shri Ramu, PF No.PB/CHD/12070/3874 vide Exhibit 'M3' and the documents pertaining to the claim settlement of the workman consisting of page 1 to 16 vide Exhibit 'M4' (Document Exhibit 'M3' and Exhibit 'M4' are numbered twice. In order to avoid any ambiguity, the letter dated 14.11.2022 and the documents pertaining to settlement of the workman are hereinafter referred as Exhibit 'M3/1' and Exhibit 'M4/1' respectively).

12. The management examined MW2 Devendra Prasad - Forensic Document Expert, who tendered into evidence his affidavit Exhibit 'MW2/A' along with his report dated 24.05.2023 vide Exhibit 'MW2/1' and demonstrative chart vide Exhibit 'MW2/2'.

13. On 29.05.2023 Learned Representative for management No.1 and Learned Representative for management No.2 closed the evidence.

14. I have heard arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1 & 2 :

15. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

16. Onus to prove issue No.1 is on the workman and onus to prove issue No. 2 is on the management No. 2.

17. In order to prove its' case the workman Gulshan examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto and supported his oral version with documents Exhibit 'W1' to Exhibit 'W3'. On the other hand, Learned Representative for management No.1 examined MW1 Ramesh Attwal, SSA, Office of Regional Provident Commissioner, Sector 17-D, Chandigarh, who deposed that he has brought the summoned record. The workman in the present case has withdrawn his Provident Fund on 05.09.2017. The workman has withdrawn his provident fund on account of leaving the employment of his employer, for which the workman filled up and submitted Form No. 19. He has not brought the Form No. 19 because the record beyond three years has been weeded out by the department. Office note to that effect is Mark 'A'. Form 19 is not used for withdrawal of advance against provident fund and it is filled only after the cessation of employment of the workman. He has brought a letter dated 14.11.2022 pertaining to the settlement of workman i.e. Gulshan S/o Shri Ramu PF No.PB/CHD/12070/3874 which is Exhibit 'M3/1'. He has also brought documents pertaining to the claim settlement of the workman and produce the same as Exhibit 'M4/1' containing page 1 to 16.

18. Management No.2 did not lead any evidence either oral or documentary.

19. From the oral as well as documentary evidence on record, it comes out that there is no dispute between the parties with regard to the facts that the management No.1 is licensed contractor under 1970 Act having licence No.CI/UT/CHD/239. Management No.2 is registered under 1970 Act having registration No.PE/CL/UT/CHD/49 whereby management No.2 has been authorised to engage management No.1 as contractor. Further there is no dispute between the parties with regard to the fact that the workman was appointed as *Safai Karamchari* (House-keeping) by management No.1 and was deployed to work as *Safai Karamchari* in the factory of management No.2. The workman has alleged that he was appointed by management No.1 on 13.12.2007. Management No.1 admitted this fact in para 1, on merits, of the written statement. Management No.2 in para No.1 on merits, in its written statement stated that the workman was deployed to work as *Safai Karamchari* in the factory of management No. 2 as a contract labourer but did not mention the date of his joining in the factory of management No. 2 and has taken the plea that his date of joining cannot be confirmed by the management No. 2. The management No. 2 did not lead any oral or documentary evidence to controvert the fact that the workman was deployed to work as *Safai Karamchari* in the factory of management No.2 w.e.f. 13.12.2007.

20. Learned Representative for management No. 2 argued that there is no relationship of employer & employee between the management No. 2 and the workman. Much stress is laid upon the fact by Learned Representative for management No.2 that there is no privity of contract between the workman and management No. 2. The workman is a contract worker appointed by management No.1 and deployed to work at the factory of management No.2. Besides, the workman was getting his monthly wages from management No. 1. The workman being an employee of the contractor / management No.1 was covered under the EPF and ESI codes of the contractor / management No.1. On the other hand, management No.1 / contractor in its written statement has admitted the fact that the workman was deployed by management No.1 in house-keeping services in the establishment of management No. 2 under a contract for service. The aforesaid arguments advanced by Learned Representative for management No. 2 stands proved from the cross-examination of AW1 Gulshan / workman wherein he has admitted as correct that he was deployed as *Safai Karamchari* by

the management No.1 in the factory premises of the management No.2. AW1 admitted as correct that he was paid his monthly wages directly by management No.1. AW1 admitted as correct that EPF and ESI contribution were being deducted from his monthly wages by management No.1. AW1 admitted as correct that he was covered under the ESI and EPF under the respective codes of the management No.1. AW1 admitted as correct that management No.1 was the contractor and management No.2 was the principal employer in his case. AW1 admitted as correct that management No.1 has deployed security staff and security Supervisors in the factory premises of management No.2. AW1 admitted as correct that his work was controlled and supervised by the Security Supervisor deployed by management No.1. AW1 in his cross-examination conducted by Learned Representative for management No.2 admitted as correct that he was employee of management No.1. From the aforesaid version of AW1 Gulshan it is duly proved on record that the workman was contractual employee appointed by management No.1 and was deputed to work as *Safai Karamchari* being a contractual employee with the establishment of management No. 2. Since the service conditions such as salary, deduction of ESI, EPF are governed by management No.1 accompanied with the fact that the security staff and the Security Supervisors deployed by management No.1 in the premises of management No. 2 were controlling and was supervising the work of the workman, thus the workman was employee of management No. 1. Consequently, the relationship of employer & employee exists between management No. 1 and the workman and there is no relationship of employer & employee between management No. 2 and the workman.

21. Learned Representative for management No.2 argued that the workman does not fall within the definition of 'workman' as defined in Section 2(s) of the ID Act. To my opinion, the aforesaid argument advanced by Learned Representative for management No.2 is devoid of merits as under Section 2(s) of the ID Act 'workman' means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceedings under this Act in relation to an industrial dispute includes any such person who has been dismissed / discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute. In the present case the workman is unskilled person employed in the industry of management No.2 to perform the manual work as *Safai Karamchari*. The work and the nature of duty discharged by the workman does not fall in any of the exceptions (i) to (iv) of Section 2(s) of the ID Act. Moreover, the management No.1 & 2 failed to controvert the fact that the workman has served as contractual employee in the establishment of management No.2 for a continuous period from 13.12.2007 to 01.04.2017 and thus, completed 240 days in the 12 calendar months preceding his alleged termination. Therefore, the workman is a 'workman' as defined under Section 2(s) of the ID Act.

22. In the present case, the workman has challenged his termination as illegal. Learned Representative for the workman argued that on 01.04.2017 the services of the workman have been terminated by Shri Anil Mangal, official of management No.2 with his verbal orders without following the mandatory procedure laid down under the ID Act. In proceedings before the Labour Inspector, the management No.1 in his reply dated 11.12.2017 claimed that its contract with management No.2 was terminated w.e.f. 28.02.2017 and falsely stated that the workman has resigned from his job. The termination order being illegal, the workman is entitled to reinstatement with continuity of service, full back wages and all other consequential benefits. On the other hand, Learned Representative for management No.1 has taken the plea that the workman has resigned at his own due to personal reasons and received his full & final payment. The workman has already withdrawn his provident fund. Despite that management No.1 has offered the workman a job at another place where the work was available but the workman did not accept the offer. Learned Representative for management No.2 contended that since there is no relationship of employer & employee between management No.2 and the workman, therefore, the workman is not entitled to seek any relief from management No.2. To my opinion, as discussed above, there is no relationship of employer & employee between management No.2 and the workman. In the absence of relationship of employer& employee between the management No.2 and the workman, the question to terminate the workman from service by the official of management No.2 does not

arise. However, the relationship of employer & employee exists between management No.1 and the workman. The question of legality or illegality of termination would arise only if the workman is terminated from service.

23. In the present case, the management No.1 has proved into evidence resignation letter dated 04.04.2017 of workman vide Exhibit 'M1' when put to cross-examination AW1 Gulshan (workman) admitted as correct that he resigned from service on dated 04.04.2017. AW1 stated that he has seen original resignation letter Exhibit 'M1' which bears his signatures. The management No.1 has taken the plea that after resignation the workman had received ₹ 50,769/- towards full & final payment and executed full & final settlement receipt dated 07.04.2017 vide Exhibit 'M2'. Whereas, the workman has denied his signatures on full & final settlement receipt Exhibit 'M2'. In this regard AW1 in his cross-examination stated that Exhibit 'M2' does not bear his signatures at point 'X'. AW1 voluntarily stated that it does not bear his signatures. In his further cross-examination workman has admitted his signatures on the claim statement, demand notice dated 13.06.2018, authority letter and his affidavit. In this regard AW1 in his cross-examination stated that statement of claim Exhibit 'M3' at page No.5 at point 'A' bears his signatures. He has seen photocopy of demand notice dated 13.06.2018 on judicial file which bears his signatures at page No. 2 at point 'B'. Authority letter Exhibit 'M4' bears his signatures at point 'C'. Affidavit Exhibit 'AW1/A' bears his signatures at point 'D' & 'E'. AW1 denied his suggestion AW1 as wrong that Exhibit 'M2' bears his thumb impression. From the aforesaid version of AW1 it is made out that the workman has denied the execution of receipt dated 07.04.2017 / Exhibit 'M2' towards full & final settlement. The plea of the workman that he did not put his signatures at point 'X' of full & final settlement of receipt dated 07.04.2017 / Exhibit 'M2' stands falsify from the report of Forensic Expert Exhibit 'MW2/1'. MW2 Devinder Parsad - Forensic Document Expert has proved his expert report dated 24.05.2023 vide Exhibit 'MW2/1' supported with demonstrative chart Exhibit 'MW2/2'. MW2 as per his expert report Exhibit 'MW2/1', has examined and compared disputed / questioned signatures of workman marked 'Q1' on full & final settlement receipt dated 07.04.2017 / Exhibit 'M2' with his standard signatures i.e. Mark 'A' on resignation letter dated 04.04.2017 / Exhibit 'M1', Mark 'A2' on authority letter dated 05.12.2018 / Exhibit 'M4', Mark 'A3' on statement of claim dated 05.12.2018, Mark 'A4', Mark 'A5' on rejoinder dated 04.09.2021, Mark 'A6' and Mark 'A7' on affidavit dated 14.09.2021 / Exhibit 'AW1/A' and Mark 'A8' to 'A10' on cross-examination recorded on 16.08.2022. After comparison of the aforesaid standard signatures of the workman with his disputed signatures the expert has given the opinion that 'the person, who wrote standard Hindi signatures reading 'Gulshan' marked 'A1' to 'A10' also wrote the questioned signatures marked 'Q1". The opinion of the Forensic Document Expert vide his report Exhibit 'MW2/1' is not controverted by the workman. Despite opportunity provided to the workman, cross-examination of MW2 is recorded as 'Nil'. As per the judgment of Hon'ble High Court of Punjab & Haryana reported in 1992(1) RRR 135 P&H titled as Smt. Harnam Kaur Versus Shiromani Gurudwara Prabhandak Committee, Amritsar, if no-cross-examination is put to a witness his statement is deemed to be accepted as correct. Accordingly, management No.1 has proved into evidence that the workman had signed receipt dated 07.04.2017 of full & final settlement after receiving amount of ₹ 50,769/- from the management No.1 and confirmed that there is no amount outstanding which may be due to workman from M/s Hawks Eye Security Service Private Limited, Chandigarh including leave encashment, bonus, gratuity or any other payment. As proved from Exhibit 'M1' i.e. resignation letter dated 04.04.2017, the workman has resigned from service due to domestic problems. In the claim statement workman has pleaded that on 01.04.2017 he reported for duty as usual, official of management No.2 namely Anil Mangal asked him to sign on a blank paper in the name of the salary slip. The aforesaid plea taken by the workman that he was asked to sign on a blank paper does not stand proved because AW1 in his cross-examination conducted by managementNo.2 stated that he does not have any proof to show that he was called by any official of GBA on 01.04.2017. He does not have any proof to show that he was asked to sign on blank papers by any official of management No.1. He did not make any complaint to any official or any authority of Labour Department about his allegation of taking signatures on blank papers. Thus, it is duly proved on record that the workman has voluntarily tendered his resignation Exhibit 'M1' on 04.04.2017. Furthermore after tender of resignation the workman has received amount of ₹ 50,769/-from its employer / contractor i.e. management No.1 towards full and final settlement and confirmed that there is no amount outstanding which may be due to him from the

management No.1 including leave encashment, bonus, gratuity or any other payment. Moreover, it is duly proved on record that after resignation the workman is gainfully employed. In this regard AW1 in his cross-examination conducted by Learned Representative for management No.1 voluntarily stated that he remained idle for about one year after leaving service, thereafter in order to earn his livelihood, he joined some other service @ ₹ 14,000/- gross monthly salary and ₹ 12,500/- per month after standard deductions. Consequently, there is no reason to accept the plea of the workman that his termination is illegal because the workman has not been terminated from the service by its employer i.e. management No.1 but the workman is proved to have resigned from his service due to his domestic problems and proved to have received the amount towards full & final settlement. No amount is outstanding against its employer / management No. 1.

24. Accordingly, issue No.1 is decided against the workman and in favour of the managements and issue No.2 is decided in favour of management No.2 and against the workman.

Relief :

25. In the view of foregoing finding on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . .,

The 30.05.2023.

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Pramila, W/o Sanjay Kumar, R/o # 537-A, Sector 18-B, Chandigarh, have changed my name to Pramila Devi.

[963-1]

I, Sanjay, S/o Bansi Ram, R/o # 537-A, Sector 18-B, Chandigarh, have changed my name to Sanjay Kumar.

[964-1]

I, Mahendra Singh, S/o Pratap Singh, R/o # 1341, (Gf) Sector 15-B, Chandigarh, have changed my name to Mahendra Singh Saharan.

[965-1]

I, Mahendra Singh, S/o Pratap Singh, R/o # 1341, (Gf) Sector 15-B, Chandigarh, have changed my minor son name from Abhishek to Abhishek Saharan.

[966-1]

I, Deepak, S/o Pala Ram, House No. 1419, Sector 25-D, Chandigarh, have changed my name from Deepak to Deepak Kumar.

[967-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."